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Attorneys for Defendant

U.S. COURT  
ON MAY 27 PM 3:45  
REC'D \_\_\_\_\_ FILED N  
CAMERON S. BURKE  
CLERK, IDAHO \_\_\_\_\_

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Case No. CR-03-220-E-BLW
vs.	)	
	)	<b>MOTION FOR CHANGE OF VENUE</b>
DUSTIN HOLM,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW Defendant Dustin Holm, by and through counsel, and respectfully moves the Court pursuant to F.R.Cr.P. 21(a) to transfer venue for trial of this prosecution from the District of Idaho to any other District convenient for the parties and the Court. Defendants seeks transfer of this prosecution on the basis that each of the six counts of the Indictment allege that Mr. Holm caused written communications containing threats to injure persons located within four different federal agencies and/or facilities located in Eastern Idaho, and two federal agencies in Jackson, Wyoming.

Particularly, Count One of the Indictment alleges that Mr. Holm directed a threat of harm to the U.S. District Court Clerk located at the federal courthouse, Pocatello, the same courthouse that Mr. Holm is now scheduled to be tried. Count Two alleges a similar threat directed to the Idaho Nuclear Engineering Laboratories in Idaho Falls, Idaho. Count Five alleges a similar threat directed to the United States Marshal Service located at the U.S. Courthouse, Pocatello. Two of the alleged threats for which he has been indicted were directed to the staff of the U.S. District Court before whom Mr. Holm is presently scheduled to be tried. Mr. Holm avers that at least the strong appearance exists that he will be prejudiced by this Court presiding over a prosecution based in substantial part upon threats allegedly made to the U.S. District Court Clerk in Pocatello, and the U.S. Marshal Service also in Pocatello, both of which entities are directly involved with the Court and the administration of Mr. Holm's prosecution.

Further, experience indicates that a significant number of potential jurors either are employed or are related to someone employed at the Idaho National Engineering Laboratory (INEL), the subject of the alleged threat found in Count Two of the Indictment. Defendant asserts that the potential jury panel will include a significant number of jurors who are employees at the INEL or may have been or knew of others adversely effected by the alleged threat. Mr. Holm believes that because of the anticipated number of potential jurors so effected, that the panel would be prejudicially impacted to such an extent that a fair trial would not be obtained.

Defendant finally urges that two of the charged crimes could be tried in the District of Wyoming since the recipients of two of the threats were federal entities located in Jackson, Wyoming. Since venue would exists for at least two of the charges in the District of

Wyoming, and any prejudicial impact upon the Court or jury panel would not exist in Wyoming.  
Defendant seeks transfer of his trial to the District of Wyoming.

DATED this 27 day of May, 2004.

FEDERAL DEFENDERS OF EASTERN  
WASHINGTON AND IDAHO

  
Steven Richert

### CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** on the 27 day of May, 2004, I served a true and  
correct copy of the foregoing document as follows:

Jack B. Haycock, Esq.  
Assistant United States Attorney  
District of Idaho  
801 East Sherman, Ste. 192  
Pocatello, ID 83201

☐ U.S. Mail, postage prepaid  
☒ Hand Delivery  
☐ Overnight Mail  
☐ Facsimile

By:

  
Steven V. Richert